

NOT FOR PUBLICATION

JUL 24 2008

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE LUIS DE LOS SANTOS RAMIREZ;  
EULALIA FLORES ORTEGA,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 08-70376

Agency Nos. A73-973-336  
A73-973-337

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 14, 2008<sup>\*\*</sup>

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioners' motion to reopen removal proceedings.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

We review the BIA's denial of a motion to reopen for abuse of discretion. *See Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002).

The regulations provide that "a party may file only one motion to reopen," and that the motion "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioners' motion to reopen as untimely because it was filed on August 10, 2007, more than 90 days after the November 6, 2006 final administrative decision. Accordingly, respondent's unopposed motion for summary disposition in part is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (*per curiam*).

Further, we lack jurisdiction to review the BIA's decision declining to exercise its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). Accordingly, respondent's unopposed motion to dismiss this petition for review in part for lack of jurisdiction is granted.

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**